

AMENDED IN SENATE APRIL 9, 2008

**SENATE BILL**

**No. 1519**

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**Introduced by Senator Yee**

February 22, 2008

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An act to add ~~Sections 53075.7, 53075.8, and 53075.9~~ *Section 53075.8* to the Government Code, relating to taxicabs.

LEGISLATIVE COUNSEL'S DIGEST

SB 1519, as amended, Yee. Local governments: taxicabs.

~~(1) Existing law requires every city or county to adopt an ordinance or resolution regarding taxicab transportation service, including, but not limited to, provisions for a policy for the entry into the business of providing taxicab transportation service and for the establishment or registration of rates for the provision of that service.~~

~~This bill would require the regulator, defined as the local entity responsible for the regulation of, and enforcement of rules, regulations, or ordinances governing, taxicabs within the local jurisdiction defined upon receipt of a complaint containing sufficient information to warrant conducting an investigation, to investigate any business that advertises a taxicab transportation service for hire identified in the complaint. The bill would require the regulator, by ordinance, resolution, or other appropriate procedure, to adopt criteria that establishes the type of information, if contained in a complaint, that is sufficient to warrant an investigation.~~

~~This bill would also require every taxicab transportation service to include the number of its certificate, license, or permit in every written or oral advertisement, as defined, of the services it offers, and would authorize the regulator to impose a fine of not more than \$5,000 if it finds, after a hearing, that a person or corporation is operating as a~~

~~taxicab transportation service without a valid certificate, license, or permit, or fails to include, the number of the certificate or permit in any written or oral advertisement.~~

~~(2) Existing~~

~~Existing law provides for the termination of telephone service by a telephone corporation or telegraph corporation to a charter-party carrier of passengers without a valid certificate or permit, pursuant to specified procedures by the Public Utilities Commission.~~

~~This bill would provide for the termination of telephone service by a telephone corporation or telegraph corporation to a taxicab transportation service without a valid certificate, license, or permit and places enforcement of this prohibition with the regulator, as defined. By imposing a new or higher level of service upon local governments, this bill would impose a state-mandated local program.~~

~~(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes-no. State-mandated local program: yes-no.~~

*The people of the State of California do enact as follows:*

- 1    ~~SECTION 1. Section 53075.7 is added to the Government~~
- 2    ~~Code, to read:~~
- 3    ~~53075.7. (a) Upon receipt of a complaint containing sufficient~~
- 4    ~~information to warrant conducting an investigation, the regulator~~
- 5    ~~shall investigate any business that advertises or operates taxicab~~
- 6    ~~transportation service for hire. The regulator shall, by ordinance,~~
- 7    ~~resolution, or other appropriate procedure, adopt criteria that~~
- 8    ~~establishes the type of information, if contained in a complaint,~~
- 9    ~~that is sufficient to warrant an investigation. Pursuant to this~~
- 10    ~~investigation, the regulator shall do all of the following:~~
- 11    ~~(1) Determine which businesses, if any, are required to have in~~
- 12    ~~effect a valid taxicab certificate, license, or permit as required by~~
- 13    ~~ordinance, but do not have that valid authority to operate.~~
- 14    ~~(2) Inform any business not having valid authority to operate~~
- 15    ~~that it is in violation of law.~~

~~(3) Within 60 days of informing the business pursuant to paragraph (2), institute civil or criminal proceedings, or both, pursuant to the governing municipal code or other authority of jurisdiction.~~

~~(b) For purposes of this section:~~

~~(1) "Advertises" means any action described in subdivision (b) of Section 53075.9.~~

~~(2) "Regulator" means the local entity responsible for the regulation, including, but not limited to, the certification, licensing, or permitting of, and enforcement of rules, regulations, or ordinances governing, taxicabs within the local jurisdiction.~~

~~SEC. 2.~~

*SECTION 1.* Section 53075.8 is added to the Government Code, to read:

53075.8. (a) The Legislature finds and declares that advertising and use of telephone service is essential for a taxicab transportation service to obtain business and conduct intrastate passenger transportation services. Unlawful advertisements by taxicabs operating without a valid taxicab certificate, license, or permit required by any ordinance has resulted in properly certificated, licensed, and permitted taxicab operators competing with these taxicabs operating without a proper taxicab certificate, license, or permit using unfair business practices. Taxicabs operating without a proper taxicab certificate, license, or permit have also exposed passengers to unscrupulous persons who portray themselves as lawful operators. Many of these taxicabs operating without a proper taxicab certificate, license, or permit have been found to have also been operating without insurance, or in an unsafe manner, thereby placing their passengers at risk.

(b) (1) The Legislature further finds and declares that the termination of telephone service utilized by taxicabs operating without proper authority is essential to ensure the public safety and welfare. Therefore, local taxicab regulatory authorities should take enforcement action, as specified in this section, to disconnect telephone service of unauthorized taxicab operators who unlawfully advertise passenger transportation services in yellow page directories and other publications. The enforcement actions provided for by this section are consistent with the decision of the California Supreme Court in *Goldin v. Public Utilities Commission* (1979) 23 Cal. 3d 638.

(2) For purposes of this section, a telephone corporation or telegraph corporation, or a corporation that holds a controlling interest in the telephone or telegraph corporation, or any business that is a subsidiary or affiliate of the telephone or telegraph corporation, that has the name and address of the subscriber to a telephone number being used by a unauthorized taxicab operator shall provide the regulator, or an authorized officer or employee of the regulator, upon demand, and the order of a magistrate, access to this information. A magistrate may only issue an order for the purposes of this subdivision, if the magistrate has made the findings required by subdivision (c).

(c) A telephone or telegraph corporation shall refuse telephone service to a new subscriber and shall disconnect telephone service of an existing subscriber only after it is shown that other available enforcement remedies of the regulator have failed to terminate unlawful activities detrimental to the public welfare and safety, and upon receipt from any authorized officer or employee of the regulator of a writing, signed by a magistrate, as defined by Sections 807 and 808 of the Penal Code, finding that probable cause exists to believe that the subscriber is advertising or holding out to the public to perform taxicab transportation services without having in force a valid certificate, license, or permit issued by the regulator authorizing those services, or that the telephone service otherwise is being used or is to be used as an instrumentality, directly or indirectly, to violate or assist in violation of the laws requiring a taxicab operator to have valid operating authority. Included in the writing of the magistrate shall be a finding that there is probable cause to believe that the subject telephone facilities have been, or are to be, used in the commission or facilitation of holding out to the public to perform taxicab transportation services without having proper authorization to provide those services and that, absent immediate and summary action, a danger to the public welfare and safety will result.

(d) Any person aggrieved by any action taken pursuant to this section shall have the right to file a complaint with the regulator and may include therein a request for interim relief. The regulator shall schedule a public hearing on the complaint to be held within 21 calendar days of the filing and assignment of a docket number to the complaint. The remedy provided by this section shall be exclusive. No other action at law or in equity shall accrue against

1 any telephone or telegraph corporation because of, or as a result  
2 of, any matter or thing done or threatened to be done pursuant to  
3 this section.

4 (e) At any hearing held on a complaint filed with the regulator  
5 pursuant to subdivision (d), the regulator staff shall have the right  
6 to participate, including the right to present evidence and argument  
7 and to present and cross-examine witnesses. The regulator staff  
8 shall have both the burden of providing that the use made, or to  
9 be made, of the telephone service is to hold out to the public to  
10 perform, or to assist in performing, services as a taxicab  
11 transportation service, or that the telephone service is being, or is  
12 to be, used as an instrumentality, directly or indirectly, to violate,  
13 or assist in violating, the valid operating authority applicable to  
14 providers of taxicab transportation services and that the character  
15 of the acts are such that, absent immediate and summary action,  
16 a danger to public welfare or safety will result, and the burden of  
17 persuading the regulator that the telephone services should be  
18 refused or should not be restored.

19 (f) The telephone or telegraph corporation, immediately upon  
20 refusal or disconnection of service in accordance with subdivision  
21 (c), shall notify the subscriber in writing that the refusal or  
22 disconnection of telephone service has been made pursuant to a  
23 request of a regulator and the writing of a magistrate, and shall  
24 include a copy of this section, a copy of the writing of the  
25 magistrate, and a statement that the customer of the subscriber  
26 may request information from the regulator concerning any  
27 provision of this section and the manner in which a complaint may  
28 be filed.

29 (g) The provisions of this section are an implied term of every  
30 contract for telephone service and a part of any application for  
31 telephone service. Applicants for, and subscribers and customers  
32 of, telephone service, have, as a matter of law, consented to the  
33 provisions of this section as a consideration for the furnishing of  
34 the telephone service.

35 (h) As used in this section, the terms “person,” “customer,” and  
36 “subscriber” include the subscriber to telephone service, any person  
37 using the telephone service of a subscriber, an applicant for  
38 telephone service, a corporation, a limited liability company, a  
39 partnership, an association, and includes their lessees and assigns.

1 (i) As used in this section, the following terms have the  
2 following meanings:

3 (1) “Authorized officer or employee of the regulator” includes  
4 any employee of the regulator designated by the authority  
5 governing the activities and operations of the regulatory entity.

6 (2) “Regulator” ~~has the same meaning as specified in subdivision~~  
7 ~~(b) of Section 53075.7.~~ *means the local entity responsible for the*  
8 *regulation, including, but not limited to, the certification, licensing,*  
9 *or permitting of, and the enforcement of rules, regulations, or*  
10 *ordinances governing, taxicabs within the local jurisdiction.*

11 (3) “Telegraph corporation” has the same meaning as specified  
12 in Section 236 of the Public Utilities Code.

13 (4) “Telephone corporation” has the same meaning as specified  
14 in Section 234 of the Public Utilities Code.

15 ~~SEC. 3. Section 53075.9 is added to the Government Code, to~~  
16 ~~read:~~

17 ~~53075.9. (a) Every taxicab transportation service shall include~~  
18 ~~the number of its certificate, license, or permit in every written or~~  
19 ~~oral advertisement of the services it offers.~~

20 ~~(b) For purposes of this subdivision, “advertisement” includes;~~  
21 ~~but is not limited to, the issuance of any card, sign, or device to~~  
22 ~~any person, the causing, permitting, or allowing the placement of~~  
23 ~~any sign or marking on or in any building or structure, or in any~~  
24 ~~media form, including newspaper, magazine, radiowave, satellite~~  
25 ~~signal, or any electronic transmission, or in any directory soliciting~~  
26 ~~taxicab transportation services subject to this chapter.~~

27 ~~(c) Whenever the regulator after a hearing, finds that any person~~  
28 ~~or corporation is operating as a taxicab transportation service~~  
29 ~~without a valid certificate, license, or permit or fails to include in~~  
30 ~~any written or oral advertisement the number required by~~  
31 ~~subdivision (a) of Section 50739, the regulator may impose a fine~~  
32 ~~of not more than five thousand dollars (\$5,000) for each violation.~~  
33 ~~The regulator may assess the person or corporation an amount~~  
34 ~~sufficient to cover the reasonable expense of investigation incurred~~  
35 ~~by the regulator. The regulator may assess interest on any fine or~~  
36 ~~assessment imposed, to commence on the day the payment of the~~  
37 ~~fine or assessment becomes delinquent. All fines, assessments,~~  
38 ~~and interest collected shall be deposited at least once each month~~  
39 ~~in a fund established for the purpose of enforcing the provisions~~  
40 ~~of this section.~~

1     ~~(d) For purposes of this section, “regulator” has the same~~  
2     ~~meaning as specified in subdivision (b) of Section 53075.7.~~

3     ~~SEC. 4. No reimbursement is required by this act pursuant to~~  
4     ~~Section 6 of Article XIII B of the California Constitution because~~  
5     ~~this act provides for offsetting savings to local agencies or school~~  
6     ~~districts that result in no net costs to the local agencies or school~~  
7     ~~districts, within the meaning of Section 17556 of the Government~~  
8     ~~Code.~~

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